

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Writ Petition No.14201 of 1997

DATED 8-2-2007

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BETWEEN

Visakha Coffee Plantation Conductors &
Workers Union (Regd.No.D/1094/89) rep
by its General Secretary G.Chitti Babu.

.. Petitioner

And

The A.P.State Government rep by its
Secretary, Forest Department, Secretariat,
Hyderabad and 3 others.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO.14201 of 1997

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ORDER:

The petitioner union seeks a direction to the respondents to pay the last grade scale together with all the allowances of the Corporation Conductors to the Plantation Conductors with effect from their respective dates of joining the services of the respondent Corporation.

The members of the petitioner union have been working as Plantation Conductors in the Coffee Plantation Project of the 2nd

respondent – A.P.State Forest Development Corporation Limited. It is their case that since their services have been engaged for more than two decades, the 2nd respondent was not entitled to pay them merely the minimum wages and ought to have given them regular scales of pay. According to the petitioners, they are entitled to the lowest scale of pay admissible to the last grade employees in the State Government or in the Corporation. Denial of these emoluments is said to be in violation of Articles, 14, 21 and 23 of the Constitution of India.

In its counter affidavit, the 2nd respondent would state that an agreement was reached between the petitioner union and the Management during the Conciliation Meeting before the Joint Commissioner of Labour, Hyderabad for regularization of their services on adhoc basis with an adhoc pay scale of Rs.650-10-750 with variable DA as per the cost of living index as notified by Government of A.P. from time to time for Visakhapatnam zone to such class of workers; that it was specifically agreed that they would not be considered for absorption against any regular vacancy unless they are sponsored through the Employment Exchange or they were exempted therefrom since they were all contingent workers engaged on daily wage basis. The above agreement, for a period of three years, was entered into between the Management and the Coffee Plantation Conductors and the Workers Union before the Deputy Commissioner of Labour, Visakhapatnam on 22.3.1990 under Section 12(3) of the Industrial Disputes Act, 1947 (for short 'the Act') and accordingly the services of all the Plantation Conductors working in the Coffee Plantation Project have been regularized with

an adhoc pay scale of Rs.650-10-750 with variable DA to be revised every six months, based on the cost of living index. It is stated that the adhoc pay was revised subsequently to Rs.825-15-900-20-1000 with variable DA and also with upgradation of certain service benefits. According to the 2nd respondent, the Board of Directors of the Corporation had made available 27 regular vacant posts of Fieldman in the year 1995 in the Coffee Plantation Project by down grading such posts to Fieldman Grade.II with the pay of last grade service in the Corporation (Rs.1375-2375) by absorption of Plantation Conductors who had put in a minimum of 10 years of service and possessed 10th class qualification. Relaxation was given in the case of SC and ST candidates with 8th class and above in the order of seniority in the light of the scheme formulated by the Government in G.O.Ms.No.212 F&T (FW.PC.III) Department dated 22.4.1994 and that, out of the 89 plantation conductors, 27 Plantation Conductors, who possessed the qualifications prescribed for the post, were absorbed as Fieldman Grade-II in the order of their seniority with pay and allowances and service benefits as applicable to regular categories of employees. It is further stated that another settlement, under Section 18(1) of the Act, was entered into between the petitioner union and the management for a two year period from 1.3.1995 to 28.2.1997 wherein it was agreed that the plantation conductors possessing the qualifications prescribed for the post of Fieldman Grade-II may be considered as against future vacancies, if any, in the category of Fieldman Grade-II subject to the Corporation/Government regulations in this regard and that the plantation conductors who belonged to the petitioners' union had also agreed not to make any undue demands to employ them

as Fieldman Grade-II. Respondents would contend that contrary to this agreement, and when further process of the agreement is underway, the present writ petition was filed by the petitioner union seeking last grade scale with allowances as applicable to the regular category which was in violation of the agreements reached. It is further stated that in consideration of the demands of the petitioner union, and as a consequence of the settlement reached between the petitioner union and the management for a period of three years from 1.3.1997 to 28.2.2000 under Section 18(1) of the Act, it was further agreed to consider another 27 plantation conductors as Fieldman Grade-II subject to fulfillment of the qualifications prescribed to the post as against the vacancies available in the coffee plantation project due to retirement/death etc., and by downgrading/conversion of the posts. It is stated that, as per the said agreement, the remaining 42 plantation conductors were allowed wages equivalent to the initial emoluments at the minimum of the basic pay and allowances as applicable to Fieldman Grade-II duly enhancing the special allowance with effect from 18.19.1997 and the wages to be revised every year on 1st April on par with the wages of the Fieldman Grade-II and that, as a result, the plantation conductors of the petitioner's union were drawing wages of regular Fieldman Grade-II employees, which was more than the wages fixed under the Minimum Wages Act. It is further stated that, in the said agreement, the petitioner's union had also agreed not to make any demands whatsoever involving financial commitment during the period of operation of the agreement effective upto 28.2.2000.

The present writ petition was filed in the year 1997, and in view of the agreement for the period 1.3.1997 to 28.2.2000, and in

the light of what the petitioner union had agreed to therein, it was not open to the petitioner union to seek the relief sought for in the writ petition. Having entered into an agreement under Section 18(1) of the Act, which was binding on them, it is not open to the petitioner union to make any claims contrary to the agreement before this Court. Reliance is however placed on paragraph 46 of the judgment in **Secretary, State of Karnataka v. Uma Devi**^[1], which reads as under;

“In cases relating to service in the commercial taxes department, the High Court has directed that those engaged on daily wages, be paid wages equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively appointed. The objection taken was to the direction for payment from the dates of engagement. We find that the High Court had clearly gone wrong in directing that these employees be paid salary equal to the salary and allowances that are being paid to the regular employees of their cadre in Government service, with effect from the dates from which they were respectively engaged or appointed. It was not open to the High Court to impose such an obligation on the State when the very question before the High Court in the case was whether these employees were entitled to have equal pay for equal work so called and were entitled to any other benefit. They had also been engaged in the teeth of directions not to do so. We are, therefore, of the view that, at best, the Division Bench of the High Court should have directed that wages equal to the salary that are being paid to regular employees be paid to these daily wage employees with effect from the date of its judgment. Hence, that part of the direction of the Division Bench is modified and it is directed that these daily wage earners be paid wages equal to the salary at the lowest grade of employees of their cadre in the commercial Taxes Department in Government service, from the date of the

judgment of the Division Bench of the High Court. Since they are only daily wage earners, there would be no question of other allowances being paid to them. In view of our conclusion, that Courts are not expected to issue directions for making such persons permanent in service, we set aside that part of the direction of the High Court directing the Government to consider their cases for regularization. We also notice that the High Court has not adverted to the aspect as to whether it was regularization or it was giving permanency that was being directed by the High Court. In such a situation, the direction in that regard will stand deleted and the appeals filed by the State would stand allowed to that extent. If sanctioned posts are vacant (they are said to be vacant) the state will take immediate steps for filling those posts by a regular process of selection. But when regular recruitment is undertaken, the respondents in CA Nos.3595-3612 and those in the Commercial Taxes Department similarly situated, will be allowed to compete, waiving the age restriction imposed for the recruitment and giving some weightage for their having been engaged for work in the Department for a significant period of time. That would be the extent of the exercise of power by this Court under Article 142 of the Constitution to do justice to them.”

The said judgment, in fact, goes against the submission made on behalf of the petitioners. The Supreme Court took note of the fact that the High Court had directed that those engaged on daily wages be paid wages equal to the salary and allowances that were being paid to regular employees of their cadre in Government services with effect from the dates on which they were respectively appointed and held that the High Court had gone wrong in directing that these employees be paid salary equal to the salary and allowances that were being paid to regular employees of their cadre in Government service with effect from the dates from which they

were respectively engaged or appointed and that it was not open to the High Court to impose such an obligation on the State. The very question before the Supreme Court in that case was whether employees were entitled to equal pay for equal work. The Supreme Court held that, at best, the High Court should have directed wages equal to the salary that was being paid to regular employees to be paid to these daily wage employees with effect from the date of its judgment. This observation cannot be construed as requiring the 2nd respondent to extend regular pay scale to Coffee Plantation Conductors on par with Fieldman Grade-II in the respondent Corporation, more so, in view of the binding settlement under Section 18(1) of the Act. Having entered into a settlement with their eyes wide open, it is not open to the petitioners herein to invoke the jurisdiction of this Court and to make claims contrary to the agreement.

The writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

RAMESH RANGANATHAN,J

Dt: 8.2.2007
msv.

[\[1\]](#) AIR 2006 SC 1806

